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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/786,075	10/05/2001	Riccardo D'Agostino	CM1894MMH	8475

7590 09/23/2003

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Cincinnati, OH 45217-1087

EXAMINER

SINGH, ARTI R

ART UNIT	PAPER NUMBER
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1771

DATE MAILED: 09/23/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/786,075

Applicant(s)

D'AGOSTINO ET AL.

Examiner

Ms. Arti Singh

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 July 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5 and 8-14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5 and 8-14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

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DETAILED ACTION***Response to Amendment/Arguments***

1. The Examiner has carefully considered Applicant's amendments and accompanying remarks filed on 07/11/2003. The amendments to the specification overcome the objections made in paragraph 3 of the previous office action. Amendment to claims 1-5, 8, 11 and 12; cancellation of claims 6 & 7 have all been entered, and the pending claims at this time are claims 1-5, 8, 11 and 14. The amendment to the claims overcomes the rejection made under 35 USC 112-2 in paragraphs 4 & 5 of the previous office action, and also overcome the objection made in paragraph 1 of the last office action. The rejections made under paragraphs 8 & 9 (ODP) are also withdrawn, as Applicant in 09/786,600 has amended the claims to comprise a fluoroacrylate and no longer a fluorocarbon. Applicant's response lacks any real argument, and thus there is no rebuttal from the Examiner, however the currently amended claims stand rejected as set forth below and this action is made final necessitated by Applicant's amendments.

Claim Objections (New)

2. Claim 3 objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim, or amend the claim to place the claim in proper dependent form, or rewrite the claim in independent form. As currently claimed, the limitation of the coating being a fluorocarbon is no different than that claimed in claim 1.

Claim Rejections - 35 USC § 102(amended)

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-4 and 8-14 are rejected under 35 U.S.C. 102 (b) as being clearly anticipated by Karwoski et al. (USPN 4,632,842). It should be noted that although Applicant has amended claim 1 to state "a hard surface." While there is no literal support for this, there is support however for the term rigid (page 5, line 20 of the instant specification), and hence the Examiner is equating the two to be the same. In light of that thought, Karwoski et al. disclose a variety of biomedical articles, having both flexible and hard surfaces such as vascular and prosthetic devices, shunts, catheters etc. (column 4, lines 53-56). Additionally, at column 4, line 8 of the instant patent, it states that the tubes produced by their invention must resist radial collapse; therefore it must have some sort of strength and rigidity. Upon any of the aforesaid formed articles there is deposited a uniform coating or film of a fluoropolymer (column 4, lines 36-40), by means of a plasma glow discharge in the presence of a fluorine containing gas (column 2, line 55). Patentee, discloses in column 5, lines 28-29, that the F/C ratio is between 1.5 and 2.0, thereby meeting Applicant's desired limitation in claims 4, 13 and 14. The preferred coatings of the invention have a water contact angle of greater than 120° (column 12, lines 1-24) and thus meet the limitations desired in claims 1, 2, 11 and 12. With regard to the limitations sought in claim 8 where the article is formed prior to coating, this is exemplified in columns 6-8 where the steps are shown in formulating the tubes and then coating them. Thus, Karwoski et al. teach a hard surface substrate coated with a fluorocarbon coating/film having a water contact angle higher than 120 degrees; a fluorine/carbon ratio

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between 1.50 and 2.00 and wherein the coating is obtained via plasma glow discharge.

Therefore, Karwoski et al. anticipate claims 1-4 and 8-14.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Karwoski et al. (USPN 4,632,842) as applied to claims 1-4 and 8-14 above, and further in view of Gardella, Jr., et al. (USPN 5,627,079). Karwoski et al. teach what is set forth above, but fail to explicitly teach the use of glass, metal or ceramics as their substrate. Gardella, Jr. et al. disclose coating fibers, films, and sheets consisting of either polymeric, ceramic, metallic or glass (column 8, line 34) materials with a fluorocarbon coating (column 5, lines 22-45) used on a plethora of biomedical devices (column 6, lines 18-24). A person having ordinary skill in the art at the time the invention was made would have found it obvious to have employed the substrate of Gardella Jr. et al. namely, a glass, ceramic or metal layer, as the substrate in the invention of Karwoski et al., motivated by the desire to formulate a coated composite which is dimensionally stable and durable.

Conclusion

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

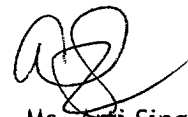
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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ms. Arti Singh whose telephone number is 703-305-0291. The examiner can normally be reached on M-F 8:00am to 6:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on 703-308-2414. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.



Ms. Arti Singh
Patent Examiner
Art Unit 1771

ars
09/15/2003